

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE:

APPLICATION OF INTERNATIONAL MINERAL
RESOURCES B.V. FOR AN ORDER TO TAKE
DISCOVERY PURSUANT TO 28 U.S.C. § 1782

Applicant.

Case No. _____

**APPLICATION OF INTERNATIONAL MINERAL RESOURCES B.V. FOR AN ORDER
UNDER 28 U.S.C. § 1782 TO TAKE DISCOVERY FROM SCOTT HORTON**

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*Attorneys for Applicant International
Mineral Resources B.V.*

Based on the accompanying Memorandum of Law and Declarations of Jonathan D. Cogan and Robbert De Bree, International Mineral Resources B.V. (“IMR”) respectfully petitions this Court for an order pursuant to 28 U.S.C. § 1782 (“Section 1782”) authorizing it to take discovery from Scott Horton, a resident of New York, for use in proceedings in the Netherlands captioned *EuroChem Volga-Kaliy LLC v. International Mineral Resources B.V.* with case number C/13/539097 (the “Dutch Action”), and for use in contemplated future litigation in the Netherlands (“Contemplated Dutch Proceedings”).

IMR’s application meets the three statutory requirements set forth in Section 1782. *First*, the party from whom discovery is sought, Mr. Horton, is present within the Southern District of New York. *Second*, the documents and deposition testimony requested are “for use” in the Dutch Action and the Contemplated Dutch Proceedings. *Third*, as a party to the Dutch Action and the potential plaintiff in the Contemplated Dutch Proceedings, IMR qualifies as an “interested person” under Section 1782.

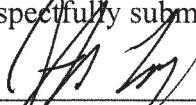
Further, the four discretionary factors set out by the United States Supreme Court in *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 264-65 (2004) weigh in favor of granting IMR’s application. *First*, the person from whom discovery is sought, Mr. Horton, is not a participant in the foreign proceeding. *Second*, IMR has already submitted materials gathered pursuant to Section 1782 in the Dutch Action, demonstrating that the foreign tribunal will be receptive to U.S. federal-court judicial assistance. *Third*, the fact that IMR has already submitted Section 1782 materials in the Dutch Action demonstrates that IMR is seeking discovery in good faith, and that IMR’s application is not an attempt to circumvent foreign proof-gathering restrictions or other policies. *Finally*, IMR’s discovery requests are not unduly intrusive or burdensome. In fact, in an effort to narrowly tailor the discovery being sought, IMR’s

proposed subpoena seeks the production of documents in response to only two document requests.

Accordingly, and for the reasons described in its Memorandum of Law, IMR respectfully requests that the Court grant it permission to serve Mr. Horton with the subpoena attached to the Declaration of Jonathan Cogan as Exhibit A.

Dated: New York, New York
August 7, 2015

Respectfully submitted,



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